

**BOARD OF SELECTMEN
MEETING MINUTES
January 6, 2003**

PRESENT: BRIAN MCDONALD, CHAIRMAN; DOUGLAS R. COOK, Co, CHAIRMAN, JONATHAN M. WALLACE, SELECTMAN; THOMAS C. REYNOLDS, JR. SELECTMAN; DAVID BOUGHER, SELECTMAN.

GUEST: Frank Campana, Naomi Bolton, Elayne Pierson, Matt Pelletier, Evelyn Connor, Sherry Butt Dunham, Elizabeth Olek, George Merrill, Elayne Pierson.

The Selectmen's Meeting was held at the Town Office Building. Chairman McDonald commenced the meeting at 6:45 p.m.

Chairman McDonald asked that everyone stand for the pledge of allegiance.

1. PUBLIC PARTICIPATION

Evelyn Connor - Mrs. Connor wanted to thank the Highway Department for a great job they have done, they have put a tremendous amount of hours in and she thinks they need to know how much they are appreciated. Chairman McDonald added that the Highway Department was even down a couple pieces of equipment this weekend throughout this, so they are pretty amazing.

Frank Campana - Mr. Campana asked the Board if next Monday was the Budget Hearing and Chairman McDonald said yes, sir. Mr. Campana said that he had a copy of last years Public Hearing here from the 14th of January 2002. Mr. Campana said that when he attended that Hearing there were a lot of numbers missing, specifically your operating budget, there was no number given in the article, there was no default budget, some of Mr. Campana's notes were whatever numbers the Board rattled out and he had to write down, the number you handed out it didn't include pay raises, Town Clerk part time help to full time and that dollar amount, Town Planner, that dollar amount, something for the Code Enforcement, he didn't remember what that was, Highway Foreman, it didn't include that, Selectmen's Secretary full time, it didn't include that, Highway Secretary 16hrs. to 34 hours it didn't include that, Article 10 which is the Article for Capital Reserve Funds, he cannot think of it, there were some numbers lacking in that. Mr. Campana said it really seemed to be more of a work session than presenting numbers to the public and he can well understand that numbers can fluctuate, he knows that Selectman Jon Wallace spent a number of years on the school board and budget hearings and they certainly had numbers in there and

Board of Selectmen

January 6, 2003

Page 2

sometimes they changed. Mr. Campana said the week following that which was the 29th of January 2002 there was another handout at the Selectmen's Meeting that did include the numbers that were missing for the budget hearing, so he said his question is, can he expect a handout at the Budget Hearing next week that will include numbers and is fairly accurate as it can be to that day. Chairman McDonald said that the Finance Committee is suppose to come to the Selectmen's Meeting the 13th and he would guess by the end of the meeting they would have their budget numbers, he would hope if the Board comes to an agreement with the Finance Committee. Chairman McDonald said he does not know where the Finance Committee is as far as the operating budget, we do have the 14th, the Board has some Warrant Articles that aren't due until the 14th. Chairman McDonald said that he does not know at the end of this meeting if Mr. Campana will have everything that he needs to know, but Chairman McDonald said he certainly intends on the 20th to have an updated figure, but again, they are staying within their guidelines but he thinks it is difficult to get your exact number by the 13th where actually a day before some of the Warrants that would be included in the final paperwork for the Town Warrant. Mr. Campana said that his understanding of a Budget Hearing is that everything is there in black and white and the numbers may change a little bit but the roadmap is there and that didn't seem to be the case last year. Chairman McDonald said that his hope was that the Board was able to present something to the Finance Committee and he wanted to the best of the Boards ability to get the Board of Selectman and the Finance Committee an opportunity for an interaction before the Budget Hearing. Mr. Campana said that your numbers of the Operating Budget what improves and what doesn't improve doesn't necessarily have to be contingent on what the Finance Committee does. Chairman McDonald said that his personal opinion is he would like the Finance Committee's input on the final product as far as an Operating Budget. Mr. Campana said the worst case scenario is that next Monday's Budget Hearing will probably be complete. Chairman McDonald said that he would hope by the end we could come to an agreement. Mr. Campana asked Chairman McDonald if that was his understanding of a Budget Hearing for the public, is to be a work session? Chairman McDonald said, no, and again the Board is stuck with the Finance Committee not going through our budget, that wasn't his personal intention was to have a final discussion as each budget came up, not to treat it as a Deliberative Session or anything, but he just thinks like this year we are not having the response of the Finance Committee and he thought that was pretty important. Mr. Campana said that he served on the Finance Committee for awhile, way back, and the philosophies may change but certainly the Selectmen didn't present a Budget Hearing with contingent on the Finance Committee. Mr. Campana said the Selectman presented what they thought that they needed to have and so be it. Selectman Cook said that this year the Board of Selectmen are trying to work with the Finance Committee so we might be somewhat united going into the Deliberative Session and then the Polls and Selectman Cook said that is what he thinks Chairman McDonald is getting at.

Board of Selectmen

January 6, 2003

Page 3

Selectman Cook said he talked to the Finance Committee Chairman this evening and he informed Selectman Cook that the Finance Committee was meeting Wednesday evening, January 8, 2003 and he was trying to get some of the Selectmen to attend that meeting and then if we need to, continue that discussion next Monday night at the Budget Hearing. Selectman Cook wanted to bring up tonight that we try to get that Warrant filled in as much as possible and that way we do have something to hand out next Monday night, so Selectman Cook is hoping that the Board has something a little bit better than last year. Mr. Campana said he understands that numbers change, but when there is no number at all it is hard to make a change and it shouldn't be presented to the public like that.

2. NONPUBLIC SESSION

Chairman McDonald made a motion that the Board of Selectmen enter into Nonpublic Session pursuant RSA 91-A:II (a) and (c) involving a discussion with an employee. Seconded by Selectman Bougher. A roll call vote was taken. Selectman Bougher - yes; Selectman Reynolds - yes; Chairman McDonald - yes; Selectman Wallace - yes; Selectman Cook - yes. Motion passed unanimously.

In Attendance: Chairman McDonald, Selectman Wallace, Selectman Cook, Selectman Bougher, Selectman Reynolds.

Selectman Bougher moved that the Board of Selectmen come out of Nonpublic Session. Seconded by Selectman Wallace. A roll call vote was taken. Selectman Bougher - yes; Selectman Reynolds - yes; Chairman McDonald - yes; Selectman Wallace - yes; Selectman Cook - yes. Motion passed unanimously.

Chairman McDonald moved to seal and restrict the minutes of the Nonpublic Session pursuant to the authority granted in RSA 91-A:3 III. Seconded by Selectman Bougher. A vote was taken. Motion passed unanimously.

3. ELIZABETH OLEK - To Discuss Martin Road ROW

Ms. Olek said there was a boundary survey performed on the property at 143 Martin Road and there was a discussion about the claim done by Mr. Joseph A. Brown and his predecessors and Ms. Olek was wondering if the Selectmen considered that in their discussion of how the plan was going to be used and Ms. Olek is concerned about the research that would go into that in understanding what Mr. Brown had done. Ms. Olek said she in prior minutes at Selectmen's meeting in 1950 she knows that the road was titled back in the 1760's, however she thinks there is some more research and missing information that would potentially influence it. Ms. Olek said the second discussion point she has is the definition of the driveway. Ms. Olek said she has gotten

Board of Selectmen

January 6, 2003

Page 4

a hold of the permit and she has concerns about the measurements and having those specifications carried out, 30 feet at the lip, tapering to 20 feet at an 18 foot point and she wants to make sure that is how it is going to be if it is going to be. Ms. Olek is interested in knowing what material is going to be used for the driveway, she is assuming it is gravel. Ms. Olek said the third discussion point is the tank and Mr. George Merrill suggested she move the tank from this area and her understanding is that Mr. Merrill has offered to cover all costs of moving the tank. Ms. Olek said she expects Mr. Merrill to work with her to figure out where to put that tank with Energy North Propane and once we find an appropriate spot then we would dig the trench and the tank would be moved by an engineer. Selectman Wallace said that his recollection is that Mr. Merrill wants to use an abandoned road to access a driveway that he is going to create off that abandoned road. Mr. Merrill said that was true. Selectman Wallace asked Ms. Olek what her concern was. Ms. Olek said she is not clear on the status of this road. Selectman Wallace said it is an abandoned road but it is still under the control of the Town. Ms. Olek said that in 1992 there was a survey performed by Mr. Joseph A. Brown the previous owner of this of the property that she and Mr. George Merrill have and survey states that Mr. Brown laid claim to Parcel A which it is called. Ms. Olek said unclear to her what happened in 1992, why he laid claim to it and states that his predecessors laid claim to it. Selectman Wallace asked Ms. Olek if she was saying that Parcel A is the abandoned road? Ms. Olek said yes. Selectman Cook made the comment, remember that came up in the discussion from the plan that Mr. Merrill put forth, there was a foot note that said, Parcel A, old abandoned road claimed by Mr. Joseph A. Brown and predecessors, legal opinion to be determined. Selectman Cook said that is when the Board said they were not going to spend any of the Town's money and sent Mr. Merrill out to get an opinion. Selectman Cook said he wasn't at the Board meeting when Mr. Merrill came back before the Board. Selectman Wallace said that he recalled the opinion was that it was an abandoned road and the Town still owned it. Selectman Wallace said that it was Mr. Merrill's attorney's opinion. Selectman Wallace asked Ms. Olek if her propane tank was on Parcel A? Ms. Olek said it was. Selectman Wallace told Ms. Olek that she would have to move it and theoretically the Board could order Ms. Olek to move it. Ms. Olek said that is correct. Selectman Cook asked Ms. Olek if she disagreed that Parcel A belongs to the Town? Ms. Olek said she does not have enough information to say the Board is correct in saying that Parcel A belongs to the Town. Ms. Olek said that based on what she is seeing which is a piece of the information there has been some research and she thinks there is potentially more to the story. Selectman Cook asked Mr. Merrill where the opinion from Mr. Merrill's lawyer was. Mr. Merrill told Selectman Cook that the Board of Selectmen have that documentation in their files somewhere. Selectman Cook asked Mr. Merrill if he had a copy and he looked amongst his papers for it. Ms. Olek presented the Board with paper she had and Chairman McDonald asked Ms. Olek if she wanted the Board to keep it and she responded yes. Selectman Wallace asked Ms. Olek if she was claiming that she owned Parcel A? Ms. Olek said she thinks

Board of Selectmen

January 6, 2003

Page 5

there is potential but she does not know what the implications of Parcel A, being either private property versus Town property, that is one question she has, then what happened to the boundary and she can tell the Board that as many people she has talked to she has heard different things and she thinks she has to seek legal advice regarding this. Selectman Wallace told Ms. Olek that it seems to him that the course of action, the Board has a legal opinion theoretically, the Board had an engineer come before the Board that participated in the research and Selectman Wallace read the letter that Mr. Merrill presented to the Board regarding this research. Selectman Wallace read that Mr. Dahlberg said that based on his and Mr. Merrill's research at the State Archives the road has been there since 1767 and in 1953 the Town voted to abandon the road, not discontinue which is in terms of usage and maintenance, therefore, it is still under control under the Town and that being the case we have to come to the Board of Selectmen to get the authority to utilize that portion of the road, which they did, they said they were going to upgrade it and Selectman Wallace asked Mr. Merrill if he understood that any money Mr. Merrill puts into that upgrade the Town owns and Mr. Merrill said he did and then the Town granted Mr. Merrill use of the road. Selectman Wallace told Ms. Olek that the Board has had a land surveyor that sought legal opinion and did research at the State Archives come before the Board and told the Board that as far as he was concerned the Town owns the road. The Board has accepted the fact that the Town owns the road in question. Selectman Wallace said the Board has no evidence to show there is a transfer of property. Selectman Wallace said there is no document to show the Town transferred or sold what is referred to as Parcel A to Mr. Joseph Brown, therefore, the Town still retains ownership. Selectman Wallace told Ms. Olek that if she has a different claim she would have to show the Board some evidence that the Town does not own it. Chairman McDonald said the Board has done quite a bit of research at Mr. Merrill's expense on this and the Board did not take it lightly, they looked hard at the ownership issue and he believed they ended up on the right side of the fence. Ms. Olek is going to research this also because she feels there was a reason to have the land surveyed, and she is not sure what was going on at that time whether there was subdivisions or whatever and she has a call into the previous surveyor to find out what that was about. Mr. Merrill told the Board he believed it was in 1972 that the tank was made and if it has been there all these years he does not know and he doesn't know who put the tank there and Mr. Merrill was going to call Mr. Brown but he never got through. Selectman Wallace asked Ms. Olek if Mr. Merrill moves her tank, would there be a problem with Mr. Merrill using Parcel A to get to his property? Ms. Olek said she prefers an alternate route, this changes the character of her property and the value of her property and it is unexpected. Ms. Olek said this has been going on for three months and she had no idea. Selectman Wallace told the Board that he recommends getting the Town attorney involved because he is not comfortable defending it with Mr. Merrill's attorney. Selectman Wallace said he does not know what kind of research was done, not that there is anything wrong with his decision,

Board of Selectmen

January 6, 2003

Page 6

but he has concerns. Selectman Wallace said we got Mr. Merrill's attorney's opinion but the Board does not have it this evening. Mr. Merrill said the Board has Mr. Merrill's attorney's decision in the Board of Selectmen files. Selectman Wallace asked the Board if Mr. Mike Dahlberg did any title research. Selectman Bougher said that when Mr. Dahlberg addressed the Board he had looked up State statute himself and Mr. Merrill's attorney took it from there. Selectman Bougher said the conclusion was that the Town never transferred that road at all and theoretically the abutters own 30 feet because it is abandoned. Selectman Bougher said that when the Town reclaims the road the Town can take that 30 feet back. Selectman Wallace said that he remembered discussions the Board had with Mr. Merrill making sure that Mr. Merrill was made aware of any upgrades Mr. Merrill does to the road the Town owns it and if Mr. Merrill does a really good job of upgrading it the Town may decide to take it back. Mr. Merrill said there was discussion also that they met with the Road Agent, Mr. Carl Knapp out there and they discussed what Mr. Merrill was going to do and it does show 32 feet of Town owned property between the wall and the end of the wall in front of Ms. Olek's house. Mr. Merrill said the only place there isn't a wall he would guess 45 to 50 feet right next to Ms. Olek's house. Selectman Wallace said he is not really sure what the right thing is to do. Selectman Wallace said the best thing to do is Mr. Merrill and Ms. Olek sort it out themselves because theoretically if the Board involves their Town attorney there is an expense with that and if the Town attorney comes back and says, yes the Town owns Parcel A, that is a Town road, the Board may go to Ms. Olek and tell her to get her propane tank off of the Town's road and it would be a Ms. Olek's expense, where at this point Mr. Merrill has agreed to take over the expense of that. Mr. Merrill said that he did not agree to take over the expense he offered to help only, by using his equipment, digging the ditch, doing whatever and that was back when things first started. Mr. Merrill said he called Ms. Olek on the day after he received permission to use the road and offered his assistance to do that and she said she would call the propane company and just to double check because winter is coming, Mr. Merrill called the propane company as well and told them and asked if Ms. Olek had called and they said no and Mr. Merrill told the propane company that Ms. Olek said she was going to call them and explain the situation and the propane company said they would have to meet with Ms. Olek to sign papers because there was cost involved. Mr. Merrill said the propane company didn't really care if it was on Parcel A, B, C, Town property, Ms. Olek's property, Mr. Merrill's property, they didn't care but they needed Ms. Olek's permission in writing for Ms. Olek to pay the cost for moving it. Mr. Merrill said there was a meeting that Mr. Merrill had scheduled which was the 19th of December and apparently Ms. Olek couldn't make it so she cancelled that meeting and made another meeting for the 30th of December 2002. Mr. Merrill said that when the 19th came and nothing happened Mr. Merrill called the propane company again and they said the meeting was the 30th and Mr. Merrill said once that meeting takes place when is the first opportunity you have to move the tank? Mr. Merrill said the propane company told him not until the third, fourth week of January

Board of Selectmen

January 6, 2003

Page 7

2003. Mr. Merrill told the propane company that the tank was really in the way that he is working out back is there anything sooner? Mr. Merrill said the propane company said they had a cancellation on the 2nd of January 2003. Mr. Merrill said the propane company did show up on the 2nd and the guy hadn't met with the owner, Ms. Olek, and so no paper work was signed and he informed Mr. Merrill that he couldn't do anything. Mr. Merrill said he does not know what the next available time is just to meet and then it will probably be another month. Selectman Wallace said that he has no problem with Mr. Merrill using that as access to his driveway if the Town owns the property, but on the other hand Selectman Wallace said he feels an obligation to protect Ms. Oleks interest if the Town doesn't own the road. Selectman Wallace said that he is inclined to say that the Board should get their attorney involved so that if push comes to shove the Board has someone to stand behind the decision to defend the Board. Chairman McDonald said he does not recall the name of the attorney that was used but he knows Mr. Dahlbergs work and reputation and he was satisfied that the Town owns the road. Selectman Wallace asked Ms. Olek what the name of the road was called. Ms. Olek said it was Maplewold Road. Selectman Bougher made a motion to get the Town attorney to look into Tax map 14/15 and the abandonment of the road formerly known as Maplewold Road and find out if it is a Town owned road. Seconded by Selectman Wallace. A vote was taken. Motion passed with Four in favor, One opposed. (Chairman McDonald). Selectman Bougher made a motion that Mr. Merrill cease and desist until this is cleared up. Chairman McDonald said that the building permit has not been issued yet. Selectman Bougher made a motion that the building permit not be issued to Mr. Merrill until this legal matter is cleared up. Seconded by Selectman Wallace. A vote was taken. Motion passed with Three in favor and Two abstention (Selectman Cook) and (Chairman McDonald). Mr. Merrill asked the Board if he could not build on that now until the Towns attorney issues a driveway permit? Chairman McDonald said, yes, the building permit has not been issued yet and Selectman Bougher has made a motion to stop it. Selectman Bougher said he wanted the driveway permit stopped. Selectman Wallace said the Board doesn't care if Mr. Merrill can access that lot from some other place he can continue to build. Selectman Wallace said the Board is restricting access on that driveway permit. Mr. Merrill said he already has the driveway permit so in other words the Board is pulling the driveway permit because the Board doesn't know what it happening but before this, the Board knew what was happening, the Board had legal advice and Mr. Merrill said he obtained a driveway permit, the Town has looked at the septic design, they okayed that, it has been to the State, the State approved the septic system, and Mr. Merrill had a scheduled inspection on the digging for Friday that Mr. Merrill had to cancel because of a snow storm. Mr. Merrill said that the foundation is scheduled to go in and the footings are scheduled to go in the day after tomorrow. Mr. Merrill said that with winter conditions he cannot leave a hole open, and he can't see how, when the Board already has legal definition, it is right in your own map. Mr. Merrill told the Board to continue to look at it but don't stop him from building. Mr. Merrill said he has already

Board of Selectmen

January 6, 2003

Page 8

sold the property, what's going to happen, he may already have a buyer. Mr. Merrill said the Board is causing severe financial heartache. Selectman Wallace said, what happens if the Board discovers that the Town doesn't own the road? Mr. Merrill said you know the Town owns the road. Mr. Merrill asked the Board if they thought that a licensed Land Surveyor, Mr. Mike Dahlberg and an attorney are going to come in to the Board and lie to them? Selectman Wallace said, no he doesn't. Mr. Merrill said he does not know when this came about but to him this time has lapsed enough so if the Board had a question, serious enough to do this to Mr. Merrill, the Board should have already seen their legal counsel and had a decision for tonight instead of just coming up and stopping everything and taking three or four months, because you know how lawyers work. Mr. Merrill said that he contacted his attorney today, just in case this happened and Mr. Merrill said he knows what he is going to do because he cannot absorb the cost of waiting and letting the frost get into the ground, he is going to hay it, he would hay it over night if he finished digging it tomorrow he would hay it for Wednesday morning. Mr. Merrill said the guy he sold it to probably has lumber and Mr. Merrill knows he has concrete ordered. Selectman Bougher said the Board is going to be sued by one or the other, pick your poison that's the bottom line, pick your poison Ms. Olek or Mr. Merrill, it doesn't matter to him. Selectman Bougher will withdraw his motion, but one of them is going to sue the Board. Selectman Bougher made a motion to rescind his motion to stop the building permit for Mr. Merrill. Seconded by Chairman McDonald. A vote was taken. Motion passed with Four in favor and One abstention. (Selectman Cook). Selectman Bougher said that one of these two people in this room are going to sue the Board. Selectman Wallace said the only issue here and he addressed Ms. Olek and asked her if her primary issue is that her propane tank is not disturbed, that the line isn't cut etc. etc. Selectman Wallace said that he knows Ms. Olek has secondary issues about whether the map is right and all that. Ms. Olek said she thinks there is two issues and (1) is the propane tank and she does not have a problem with the tank being removed and where the tank lives she doesn't really feature having to deal with this now, like tomorrow move the tank, until she understands what is going on here. Ms. Olek said that her question is, what is the status of this land, what happened in 1953, and what happened in 1992. Selectman Wallace said the Board knows what happened in 1953, the road was abandoned and in 1992 somebody might have made a mistake with their surveying, the Board doesn't know but from the Board's point of view the Town still own the road. Selectman Wallace said so the only question is, is that survey, the map that Ms. Olek has, correct in that somebody else owns it. Ms. Olek said it doesn't clarify what was going on in 1953 to her. Selectman Wallace said the road was abandoned. Ms. Olek asked then why doesn't it revert back to the abutters? Selectman Wallace said an abandoned road doesn't revert back to the abutters, it is just the Town saying they are not going to maintain it but the Town still retain ownership of the road and you can bring it back at anytime. Chairman McDonald asked Ms. Olek if she had a problem with a house going up on that lot? Ms. Olek said she did not have a problem. Chairman McDonald

Board of Selectmen

January 6, 2003

Page 9

said to Ms. Olek when she mentioned depreciation, the road coming by her house is going to depreciate her property. Ms. Olek said that she would imagine so. Ms. Olek said she has not heard any serious discussion about putting it off on Rte. 114. Chairman McDonald said there was on two meetings on a previous driveway permit and propane tank. Mr. Merrill approached the Board and went over the map that he had with them. Selectman Wallace asked Ms. Olek to come forward and look at the map with them. Selectman Cook said that he thinks the issue here tonight is the use of the abandoned road, whether the Board has the authority to grant that use or not. Selectman Cook said that reading the opinion that the Board was looking at, it said based on the meeting minutes from 1953, the minutes from the Town Meeting in 1767 that the road was properly laid out in 1767 but then the road wasn't maintained for more than 5 successive years, then in 1953 they voted to abandon the road and did not create the legal status of discontinued and an abutter cannot create an easement by prescription (adverse possession) by using the property. Selectman Cook said so unless Ms. Olek's deed says, or anybody's deed says that road is encompassed in their deed he does not think they have the right to it. Selectman Wallace said it clearly looks like a road and the Town knows from history that it was connected at one time and it got disrupted by the rerouting of Rte. 114. Mr. Merrill presented the Board with a Warranty Deed that he had and he thought it described all three Parcels, he wasn't sure. The Board of Selectmen and Mr. Merrill went over the Warranty Deed of Mr. Joseph A. Brown's and discussed Tracts I and II. Mr. Merrill said to the Board that Tract I was the East side of Martin Road, containing 1.21 acres and Tract II is beginning at an iron rod set at the intersection of a right of way fence along the easterly boundary of Route 114 and the right of way for Martin Road. Mr. Merrill said that this deed only says 2 certain Tracts of land. Mr. Merrill said that Tract II contains 1.25 acres. Mr. Merrill told the Board that Tract II dimension of the road is a distance of 38.09 feet along the northerly boundary of Parcel A as depicted on said plan to a point; thence along a stone wall located on the northerly side of said Parcel A as depicted on said plan the following courses and distances. Mr. Merrill said the Warranty Deed then says on the stone wall on the northerly side of said Parcel, south 73 degrees, 51 minutes 24 seconds west a distance of 73.49 feet to a point. After the Board of Selectmen and Mr. Merrill went over the Warranty Deed and the map Selectman Cook said that Ms. Olek would have to provide the Board with contrary information that the Board has not heard tonight, meaning that Ms. Olek has a deed claiming rights to that Parcel. Selectman Cook said that the Board could let Mr. Merrill continue to build because the bottom line if it comes down to it Mr. Merrill will not be able to use that road as access he would then have to come out Rte. 114, so either way, he would still be able to build, the issue is the access. Selectman Cook said it doesn't look like the access is going to be a major issue for two to three months before someone is actually living in that house. Mr. Merrill said to his knowledge the house hasn't been sold yet. Mr. Merrill said it would probably be a course of three or four months before it is completed and Mr. Merrill said that when he sold this property it

was subject to, Mr. Merrill let it be subject to access off Martin Road once the Board gave him that, then the purchase and sale Mr. Merrill had was binding and they have already closed on the property. Selectman Cook told Mr. Merrill if somebody comes back to the Board with contrary information, the information that he supplied to the Board was wrong. Mr. Merrill said he does not have a problem with that. Mr. Merrill said he did not know if the builder was going to have a problem with that with the owner now, because the Board is not talking to the owner now, Mr. Merrill said he is just doing dirt work. Selectman Bougher said he thought that Ms. Olek should get a copy of the legal letter that Mr. Merrill obtained and presented to the Board. Chairman McDonald asked the Board if they were going to let Mr. Everett Stone issue a building permit tomorrow for Mr. Merrill and Selectman Wallace said yes, he thinks the Board should continue the way they're going but he does not think it is a bad idea to get their attorneys opinion on what exactly is the status of that, if for no other reason than to get the map correct so that the note can be taken off the map. Mr. Merrill said that note was something that a surveyor did and it doesn't mean that all surveyors would put that note on there because what it is doing is causing all kinds of havoc. Chairman McDonald asked Mr. Merrill if he understood where the Board was coming from and if he was confident in his own research and Mr. Merrill said yes he is but he didn't know if the builder would be. Selectman Cook asked Ms. Olek if she could supply the Board with a copy of her deed and Ms. Olek replied yes. Selectman Wallace said the Board could give a copy of her deed to the Town attorney and the Board could provide Mr. Merrill and Ms. Olek if they wanted with a copy of what the Town's attorney comes back with so everyone is on board with it and it will help future Board's as well if it should come up again in the future.

4. LAWN CARE BIDS

Chairman McDonald said he was approached by the owner of The Cutting Blade Lawn Care, Mr. Bruce Richards, back in October when he starting mentioning that the bid was expiring in November and Chairman McDonald told him to just go get a copy of the old bid specs and get going on it, which he did, and Mr. Richards approached Chairman McDonald again last week and asked what was going on with that and Chairman McDonald told him that he thought it went out to bid. Mr. Richards said he disagreed because he has been watching faithfully on your cable channel and the newspaper and he hasn't seen anything. Chairman McDonald told the Board that this has not gone out for bid yet, that they have their budget hearing on Monday and Chairman McDonald said he just stumbled across this last week and reached out to the present contract Green Tomato and the Board has yet to find the old bid specs for the whole Town, cemeteries, etc. from before. Chairman McDonald asked Mr. Matt Pelletier if he had a whole package from before. Chairman McDonald said the Board is starting from scratch and that they can use the package they have as the guide and make a decision. The figure the Board has for cemeteries only for this year 2003, is

\$20,500.00. Selectman Bougher said it is \$16,225.00 for mowing the cemeteries and \$3,386.00 for cleanup and it has to be added to the \$16,225.00. Chairman McDonald asked for clarification from the Cutting Blade. Chairman McDonald asked Mr. Pelletier if he was adding extra for fall cleanup this year and did the \$20,500.00 include the new cleanup? Mr. Pelletier said that the existing contract could have been used. Selectman Cook said that the Board should instate last years numbers and we add \$18,500.00 for the cemeteries and for Town option, Town office buildings the Board had \$31,050.00 in there and PARC is \$4,000.00. Selectman Bougher said on janitorial it is \$1,500.00 and that would mean last year we spent a total of \$21,700.00. Selectman Cook said the cemetery went to a 20% increase. Selectman Cook said that the bid up and the add is going into the paper and the Board needs to get a copy of the old contract and the names can be eliminated and PARC have to tell the Board what they want to determine if the Board doubles the PARC figure. Selectman Cook asked Mr. Pelletier if he could help the Board out and draw up a package that includes the cemeteries and the gazebo and the fields so that way the Board has one package and it is done to Mr. Pelletier's specs and that will be what the Board will use for the bid specs. Mr. Pelletier said that he would do that and he would give it to Ms. Elayne Pierson tomorrow. Chairman McDonald said the Board would bring this up next Monday night at the Selectmen's meeting and get copies of the new bid and formulate some new numbers based on the 10% increase and the Board can get their Warrant Article that they want to put before the voters close enough modify at Deliberative if they have to. Selectman Bougher said there would be two Warrant Articles for this, one for the lawn care and one for the and Selectman Cook interrupted and said the Board has already talked about keeping their numbers the same for the budget and then they would have a supplemental warrant that would say, are you in favor of this, and appropriate this, which would be the difference so if it fails the Board can still go back to the operating budget. Selectman Cook said he is going to plug that in for Article 21 and call it Town Mowing.

5. TOWN CLERK BUDGETARY DISCUSSION

Chairman McDonald told Mrs. Evelyn Connor that she comes before the Board every year for he review, but she does not have to because she is an elected official so the review is almost useless or mute. Mrs. Connor said that she tells the Board every year that she comes in that the Board didn't have to do it because she was elected but she appreciated knowing where the Board stood until last year when the Board decided when they got halfway through the review that they decided why are they doing this because they are not going to give Mrs. Connor a raise anyway. Mrs. Connor said a review is a review whether you get a raise or not and she likes to know how the Board feels, that she enjoys working with the Selectmen and she never ever has given the Board a hard time and she believes that is what makes a great team and that she has always felt that way. Chairman McDonald asked Mrs. Connor if she was still moving

Board of Selectmen

January 6, 2003

Page 12

forth with her own Warrant Article? Mrs. Connor said that she was and when Chairman McDonald came back last week with the statement that he did not know who she was whether it is a Department Head or what she was that made a deciding factor for her that she wants a Warrant Article now and not just sit there and she wants to read it to the Board. Selectman Wallace asked Mrs. Connor how she was going to go ahead with the Warrant Article? Mrs. Connor replied 25 signatures on the Petition. Chairman McDonald asked Mrs. Connor why her position is considered a department when it is an elected official because Mrs. Connor is accountable more to the voters than to the Board of Selectmen. Mrs. Connor said when Mr. Edward Barrett was there and he drew up a plan of the Town and she fought him duly on this and he still would not change it, as her position you can draw a chart, Selectmen, Town Clerk and Treasurer all on the same line and then it goes down from there and Mr. Barrett would not do that no matter what Mrs. Connor said and it was put in the Town Report and it was an incorrect document and there was no changing it. Mrs. Connor said that as far as review goes the very first review she ever had was with Mr. Bill Herman. Selectman Wallace asked Mrs. Connor if Mr. Herman's mother was appointed or elected. Mrs. Connor said Mr. Herman's mother was elected as Town Clerk and appointed as Tax Collector. Mrs. Connor said a Town Clerk has always been an elected position and a City Clerk has always been an appointed position. Mrs. Connor said a Town Clerk cannot be an appointed position. Chairman McDonald said to Mrs. Connor that as an elected official her stature is different than a Department Head, she has taken an oath of office and held to much stricter standards than a personnel policy and it makes it difficult because some of the things have come up and why wouldn't her whole budget be its own Warrant Article. Mrs. Connor said that if her budget didn't pass as a stand alone budget then are the Selectman going to close these doors and not wait on people or register motor vehicles or give birth certificates out? Selectman Wallace said with an elected position, yes. Selectman Wallace said the Town has the duty to provide those services but the people have a choice to decide how much of those services they want so there is no duty upon the Town to have a Deputy Town Clerk so if you only have the Town Clerk and the Town Clerk is out sick for a day, then the office is closed, it can be that direct. Selectman Wallace said this Town has gone past that point and encumbered it as a department, which he does not think is a bad idea. Mrs. Connor said it is because of the growth of the Town, because if you go back to history before Mrs. Beverly Herman, the Town Clerk was done in their homes. Mrs. Connor said when Mrs. Herman was there she was on fees and salary and making real good pay and when they originally hired Mrs. Connor she was hired until the next election came up so when she was hired or appointed, however you want to put it this position was split to save money and every time Tax Collectors left Mrs. Connor had to take over their positions for whatever number of months until somebody was hired, unfortunately when Mr. Jack Sheehy left Mrs. Connor had just lost her husband so the best person the Selectmen could have hired was put Mrs. Tina Morrison in that position, she is an excellent Tax Collector and she picked right up

Board of Selectmen

January 6, 2003

Page 13

from the start. Chairman McDonald asked Mrs. Connor if Mrs. Morrison was considered a Deputy Town Clerk? Mrs. Connor said no, Mrs. Maureen Billodeau is Mrs. Connor's Deputy, which was appointed by Mrs. Connor with the approval of the Selectmen. Mrs. Connor said that if for any reason Mrs. Billodeau decided to leave Mrs. Morrison could take over the Deputy Town Clerk position as she is going to school for Town Clerk/Tax Collector. Mrs. Billodeau can do all the things Mrs. Connor does and she can run an election. Mrs. Billodeau does not go to the elections now because Mrs. Connor does not want to close down the Clerks office but at some point she said she will have to pull Mrs. Billodeau to an election so if Mrs. Connor left her position or for any other reason was not available they would have somebody else who could run the election instead of just Mrs. Connor. Mrs. Connor told the Board that the way she wrote her article was to put the entire salary line on there and she read to the Board what she had wrote. Mrs. Connor said that the way she wrote it would guarantee her a 3% raise which is what she feels the Board should have given her last year. Selectman Wallace said there might be some merit as well in putting not only salary but all benefits. Mrs. Connor said that is why she wrote all benefits are to remain in tack. Selectman Wallace said technically the Selectmen shouldn't necessarily be giving you those benefits, she should go to the Town for those benefits as well. Ms. Connor asked how can the Board change that now, do they want to go to a contract status? Selectman Wallace said no, that she would put her benefits on her article, to put the total cost on there. Mrs. Connor said she is not looking to increase her benefits any, she is looking to increase her salary. Selectman Wallace said that he would like to see a clear demarcation of the Town Clerk's salary and benefits. Selectman Wallace said he is not sure now if the whole budget shouldn't be on a separate warrant article. Selectman Bougher said if it fails there is no money and you cannot go back to a default budget or Mrs. Connor can build a default budget. Selectman Wallace said the Board should contact DRA and see what they say about this. Mrs. Connor said the Town Clerk's revenue is up about \$85,000.00 and they have 31 or 32 passport applications at \$30.00 a piece. Mrs. Connor said they money has gone up dramatically because more and more people are doing what they would have to do in Concord here and by the end of the year she would say that they would be on line with the State. Mrs. Connor said that as far as services go her department offers excellent services and customers do appreciate it and they look for ways to increase revenue. Mrs. Connor said she thinks the office runs pretty smoothly. Chairman McDonald said her department does an excellent job but he does not think the main department should be with Mrs. Connor at all because she is an elected official. Selectman Cook said you can treat this thing as okay, she is just all by herself and that's their department and forget about it or you treat it as a department and like Mrs. Connor said earlier, part of a team, and he thinks that is the way it has been treated, as a team, everybody gets something or nobody gets anything and that is what the Board did last year. Selectman Cook told Mrs. Connor that she was not the only one last year that did not get a raise but she is the only one that has the option to submit a warrant article and

on that warrant article he does not understand how she can write a warrant article like that because she is saying if this fails you give me half or 3% and he does not agree that Mrs. Connor can do that. Selectman Cook said Mrs. Connor is telling the voters that they are going to give her something, whether it's 3% or 10% and he doesn't know if she can do that but getting back to this whole team thing, that is how it is and if Mrs. Connor doesn't want to do that, fine, then go your separate way and do your warrant article and maybe the point of the increase health insurance the cost, because as a Board they are going to be looking at the cost of health insurance, how is that going to affect the Board and the amount of money they are going to give for raises, maybe it is going to be a factor or it isn't but Selectman Cook said it is going to be a factor because some people are going to look at the Board to do something. Selectman Wallace said if you take Mrs. Connor out as a personality, it is the position that the Board has to look at because she could decide not to run, someone else could decide to run and say, hey, this is the way I am running my department and the heck with you guys. Selectman Wallace said where he encourages the whole team thing you can never be guaranteed that because you don't know if the next person is going to be a team player, or whether they are going to want to do something their way and he thinks this may be an opportunity to separate it out because it is really unique, more unique than the Library where you have a Board running things. Mrs. Connor told the Board one of the other things they have to think about too is if she doesn't get elected she doesn't have a job next year and she cannot collect unemployment, she is done that day. Selectman Cook asked Mrs. Connor why she couldn't collect unemployment. Mrs. Connor said because she is an elected official and once she loses her job she has nothing. Selectman Wallace said that what has happened for whatever reason, it has been encumbered into the budget and it has been treated as just another department and people in Town don't really view it as an elected position, they know they elected a Town Clerk. Selectman Wallace said he would like to see either the whole budget or all the finances, salary and benefits. Mrs. Connor said that if the Board can't do the whole budget than the Board can't tell her how to write her warrant article either. Selectman Wallace said Mrs. Connor was right, for a Petition. Selectman Wallace said there was nothing in the law saying that Mrs. Connor had to get insurance, sick days or anything else. Selectman Wallace told Mrs. Connor that she should go and write her Petition article whatever way she wants and the Board should investigate the option of putting the entire budget on or some part of it. Selectman Reynolds said the 21st if the cutoff and Selectman Wallace said the Board could work something out. Chairman McDonald told Mrs. Connor the Board would do the best they could. Mrs. Connor asked the Board how they would like to see this go and Selectman Wallace said he would like to see the whole budget as a separate warrant article. Mrs. Connor asked the Board if she did that and the computer died what would happen? Selectman Cook said she would be on her own. Selectman Cook said if you wanted more help she would be on her own, it would be a standalone budget and she would have to go to the public and say, you want more services you need more

Board of Selectmen

January 6, 2003

Page 15

help. Selectman Wallace said the Board is going to sponsor Mrs. Connor if it is the whole budget or the other way he would sponsor it if it was the salary and benefits. Selectman Wallace said is Mrs. Connor just wants to put on the increase in salary in his mind Mrs. Connor would have to do a Petition. Mrs. Connor said if she does that would the Board pull the insurance's and the other benefits that she has. Selectman Wallace said, no, he is not saying they would definitely do that. Selectman Wallace said Mrs. Connor would put that in her budget, it would be part of her budget.

6. NONPUBLIC SESSION

Selectman Wallace moved that the Board of Selectmen enter into Nonpublic Session pursuant to the authority granted in RSA 91-A: II (a) and (c). Seconded by Selectman Cook. A roll call vote was taken. Selectman Bougher – no; Selectman Reynolds – yes; Chairman McDonald – yes; Selectman Wallace – yes; Selectman Cook – yes. Motion passed with Four in favor and One opposed (Selectman Bougher).

In Attendance: Chairman McDonald, Selectman Wallace, Selectman Cook, Selectman Bougher, Selectman Reynolds, Evelyn Connor.

The Board moved to come out of Nonpublic Session.

Chairman McDonald moved to seal and restrict the minutes of the Nonpublic Session pursuant to the authority granted in RSA 91-A:3 III. Seconded by Selectman Bougher. A vote was taken. Motion passed unanimously.

7. TOWN REPORT DISCUSSION

Selectman Reynolds said that he is assuming that all of the departments have submitted everything or does the Board have to ask for a resubmitting. Chairman McDonald said the Board gives a January 14th deadline but all of the Selectmen are suppose to see it. Selectman Cook asked Chairman McDonald if he has spoken to Mrs. Elayne Pierson about it? Chairman McDonald said that yes, Mrs. Pierson has started to do some work on it and Mrs. Cheryl LaBuda has started to do some work on it. Selectman Cook said that Mrs. Pierson told him that Mrs. Merry Rice had a pretty good handle on it, that she was contacting people to make sure that everyone submitted their information. Chairman McDonald said the Board will probably have to do some proofreading this weekend. Selectman Cook said maybe the Board can have all the Department Head reports to go over at next Monday nights meeting. Selectman Cook said that Mrs. Sherry Butt Dunham took some pictures and Selectman Cook showed the Board the one he got from upstairs and asked the Board if they wanted to do something like that or if they want to look at some more options. Selectman Cook showed the Board a picture of the gazebo. Selectman Cook said that

last year it was a picture of the American Legion. Selectman Bougher said the gazebo is fine, just to pass it around to the Board to look at. The Board said they liked the gazebo. Selectman Cook asked the Board if there was any particular theme that they wanted to shoot for. Mrs. Sherry Butt Dunham told the Board she had all kinds of pictures she could use. Chairman McDonald said time if of the essence as they move forward, he likes the gazebo. The rest of the Selectmen said they all liked the gazebo also so they all agreed that the Town Report cover would be the picture of the gazebo. Selectman Reynolds asked Chairman McDonald if he knew what the deadline was to submit to the printer? Chairman McDonald said he did not know. Selectman Reynolds said he knows it is after deliberative session and the Board needs to keep an eye on the date because it is usually available for voting or just before voting. Chairman McDonald said some workload has to be juggled around to get the Town Report done.

8. PERSONNEL DISCUSSION

Selectman Cook said he does not know how to approach this, he doesn't want to overstep anything but is this a private matter? Chairman McDonald said he would think so. Chairman McDonald said he did not want to do anything with the attorney until the rest of the Board saw what Chairman McDonald was presenting. Selectman Wallace said that this by itself is not Nonpublic but when the Board gets into the details that is a different story. Selectman Cook said right now the Board can acknowledge the fact that the Board has a request for a medical leave and based on this he would think that the Board needs to put some things in place to cover themselves as far as personnel by putting someone in charge. Selectman Reynolds said the Board also had to address Welfare as far as putting someone in charge. Selectman Cook said he had an idea for Welfare if the Board wanted to discuss that now. Chairman McDonald said sure, because the Board needs to get some direction. Selectman Wallace said that if the Board wants to put some people in positions they should go into Nonpublic Session just in case there are any issues involved. Mrs. Sherry Butt Dunham asked the Board who placed the request for medical leave. Chairman McDonald said Ms. Laura Petrain. The Board agreed to go into Nonpublic Session regarding reassigning work while Ms. Petrain is on medical leave at the end of the evening. Mrs. Sherry Butt Dunham asked the Board if they would come back to public session at the end and say who they put in? The Board told her they were not sure at this time, maybe.

9. WARRANT ARTICLES

Warrant Articles – Selectman Cook asked the Board if they wanted to go over the Warrant so the Board could have something for next Monday evening. The Board agreed. Selectman Cook asked the Board if they knew how many Planning Board

Board of Selectmen

January 6, 2003

Page 17

articles there are? Selectman Cook said he doesn't have his paper work with him so he is not sure. Selectman Wallace said if someone from the Planning Board is listening maybe they could send the Board an e-mail. Selectman Cook said Article 1 would be to choose the Town Officers, 2 - 9 will be Amend the Zoning. Selectman Cook wanted to go down through the articles and assign numbers. Selectman Cook said that number 10 would be the Operating Budget and CIP would be next. Selectman Cook said let's start off with the main one and asked what was going to be included? Selectman Reynolds said: Cemeteries \$5,000.00, Communications - Fire \$15,000.00, Trash Compactor \$5,000.00, Transfer Station Equipment \$18,000.00, Bridge Improvements \$5,000.00, Chase Park/Ball Field \$5,000.00, Recreational Development \$15,000.00, Communications - Police \$15,000.00, Police Cruiser \$20,783.00, Computer System \$8,000.00, Highway Truck and Equipment \$1,079.00 Employee Retirement \$10,000.00, Selectman Reynolds said the next one would be sitting by itself, Fire and Rescue Vehicle \$110,000.00 but the Board was going to take the offsetting revenues out of the Special Revenue Fund that they had and he had a notation of \$152,000.00 and out of this there is Ambulance \$15,000.00 and that leaves \$95,000.00 for the Truck. Selectman Cook said it would be \$170,000.00 out of that Special Revenue Fund.

Selectman Reynolds said the next article would be Government Building & Maintenance Fund \$45,000.00.

Selectman Reynolds said that would take care of all the existing and you would go right into the new and the Board would do them all separate. Selectman Reynolds asked the Board if they were ready to go down the list. Chairman McDonald said this will be number 14. The Board replied yes. Building Department Vehicle Replacement \$4,000.00, Fire Equipment Replacement which is new \$40,000.00, Police Equipment \$5,000.00, Safety Complex Office Furnishings \$5,000.00 for a one time expense. Selectman Wallace asked why can't the Safety Complex Office Furnishings be taken out of the general fund where it is a one time expense. Selectman Cook said yes, the Board could do that. Selectman Reynolds said the next one is listed as Police Emergency Center Equipment but he has a notation that says Emergency Management. Chairman McDonald said it is Police/Emergency Management \$10,000.00 which is a new fund, Health Insurance Fund \$10,000.00, Economic Development (Plan N.H.) \$15,000.00 and that ends these and this should bring the Board up to article 21 and then below it brings them to Closings and some Capital Reserves. Selectman Cook asked the Board if they wanted to leave the Closings until the end? The Board said yes. Selectman Cook said that Article 21 would be Road Reconstruction, 22 would be Cemetery, 23 would be Hazardous Waste. Selectman Cook asked the Board if they wanted to put Planner and Master Plan and then Town Mowing? The Board said yes. Selectman Cook said Planner would be Article 11, Master Plan would be 12 and Town Mower would be 13. Chairman McDonald said the cable station requests that the Cable Capital Reserve Fund be funded at \$10,000.00 a

Board of Selectmen

January 6, 2003

Page 18

year to replace any old equipment and then the Board had them to switch over to \$6,700.00 increase for cable equipment, so they went from \$10,000.00 a year to \$16,700.00. Selectman Cook said there is a Re-evaluation Capital Reserve Fund and asked the Board if they wanted it to be Article 28. Selectman Bougher said that where it is going to be an ongoing one they can put it in with the other new ones. Selectman Cook said the Re-evaluation Reserve Fund would be Article 23 and Cable would be Article 28. Selectman Cook said what he has left is Fireworks, Town Forest, Elderly Exemption, Credit Card Tax Payments and Special Revenue Fund for the Police detail. Selectman Cook asked the Board if they had any preferences on those. Selectman Cook said Special Revenue Fund for Police the detail would be Article 29, Fireworks would be Article 30, Credit Card Tax Payments would be Article 31,

Selectman said thank-you to Mrs. Naomi Bolton who was listening and sent the Board an e-mail on how many Planning Board Articles there are. Chairman McDonald said there are 19 Planning Board Articles. Selectman Cook said Article 1 is to choose Town Officers and Article 2 - 20 is to Amend Zoning, 21 will be Operating Budget, 22 will be Planner, 23 will be Master Plan, 24 will be Town Mower, 25 will be Capital Reserve Funds, 26 will be Fire Rescue, 27 will be Government Buildings, 28 will be Building Department Vehicle, 29 will be New Fire Equipment, 30 will be New Police Equipment, 31 will be Safety Complex Furnishings, 32 will be Police Emergency Management, 33 will be Health Insurance, 34 will be Re-evaluation Reserve Fund, 35 will be Economic Development, 36 will be Construction, 37 will be Cemetery, 38 will be Hazardous Waste, 39 will be Cable, 40 will be Special Revenue Police, 41 will be Fireworks, 42 will be Credit Card Tax Payments, 43 will be Elderly Exemption, 44 will be Town Forest. Selectman Cook asked the Board if they had a Petition regarding the removal or taking of stone walls? Selectman Bougher asked if the Board got Mrs. Bolton's opinion back on stopping growth? Selectman Cook said the Planning Board is dealing with that. Selectman Bougher said that Bolton Field is \$100,000.00 which will be Article 45. Selectman Bougher asked the Board if they wanted to hear a pitch for one more Warrant Article? Selectman Bougher said Waste Management, he did not know what to do with it in his own mind, he knows it is in the budget and everything has pretty much been taking out of it over the years except for telephone, seminar, travel expenses. Selectman Cook said they don't want to eliminate that. Selectman Bougher said well what if we do? Selectman Cook said aren't they under State mandate to keep it in there? Selectman Cook said what he suggests to this Board is that they increase that line amount and think about giving that salary to the Police Chief because 50% of that is offset. Selectman Cook said the salaries for ? Management is paid 50% reimbursable so he asked that the Board plug a figure in there because you have a Police Chief who hasn't had a raise in three years. Selectman Reynolds said if the Board is looking to do something in the raise department that may be the way to go about it. Selectman Bougher said that under the new line under books and update, that is not in there and he said if they had put this in September 12th they could have put any figure in there they wanted and got.

Board of Selectmen

January 6, 2003

Page 19

Selectman Bougher said he agrees with Selectman Cook, if the Board is not going to be allowed to put it on the Warrant Article then they should plug a salary in because that is 50% reimbursement. Selectman Reynolds said to pick a number. The Board agreed to plug \$10,000.00 in there. Selectman Wallace said the Board had an issue earlier this year with conflict of interest with the Finance Committee. Selectman Wallace asked the Board if they wanted to try to change the Finance Committee Ordinance? Selectman Cook said he has something. Selectman Wallace read should the Town of Weare amend the Finance Committee Ordinance to change the duty of the Finance Committee to include reporting on all school districts within the Town of Weare? Selectman Bougher said no, it's an illegal thing. Selectman Cook said the Finance Committee is an Advisory Committee. Selectman Bougher said that John Stark is an Advisory Committee and it is made up of two Towns. Selectman Cook said the committee looks at all the budgets and gives them a recommendation to the Townspeople of Weare. Selectman Bougher said to put it on a Warrant it passes, they go up to John Stark, John Stark says, nice to have you, they don't have to give them anything and they don't have to go out of their way like we do for the Finance Committee. Selectman Bougher said to quote someone famous in this Town who once said in a Meet the Candidates night, do you knowingly put illegal laws on the books? Selectman Cook said it is not statutory. Selectman Bougher said it might because it is a district. Selectman Bougher said we may be putting something on that is overstating our bounds. Selectman Bougher said after 10 years, why is it happening now? Selectman Reynolds said because nobody wanted to deal with it before. Selectman Bougher said they've always wanted to deal with it they've always put it off. Selectman Reynolds said that any group can request under the Right to Know Law, it doesn't matter who you are, it is all public information. Chairman McDonald said this is an aggressive Finance Committee making a recommendation. Selectman Cook told the Board if amending the Finance Committee Ordinance it would be 1 Article and the conflict of interest would go on it too. Selectman Cook said he brought this up before and he thinks he got from the Board that they would go for this because if they don't then they need to get some signatures to put on the ballot. Selectman Wallace said he thought this would be an opportunity to resolve the conflict of interest somehow but he is not sure how to do that. Chairman McDonald said the Finance Committee can decide as a whole if anybody has a conflict of interest. Selectman Cook said the Board can put on there to amend Finance Committee and the Board can talk to them next Monday evening about it at the Budget Hearing. Chairman McDonald said he would like to see the meetings of the Finance Committee televised. Selectman Cook said the Board has asked the Finance Committee and other Committees to televise in the past but it was never enforced. Selectman Cook said he is in agreement to amend the Finance Committee Ordinance to say that all meetings will be televised unless something was beyond their control. Chairman McDonald said we are at January 6 and he has no idea where they stand on the Board's budget. Chairman McDonald said had he known he had to be present at the Finance Committee meeting he would have

Board of Selectmen

January 6, 2003

Page 20

been there but he thought it was going to be televised and it has set the Board back now. Selectman Cook asked the Board if the conflict of interest be resolved by a full committee? Chairman McDonald said he has no problem with that. Selectman Wallace said the other one he had, getting back to elections in Town, he would like to see some control over the Moderator and doing absentee votes by family members. Selectman Wallace said the election he saw he would have to do some research to see if it is an issue, but in the past Selectman Wallace thinks it is a delicate issue because any Moderator is potentially going to have some family member that might be challenged and there is nothing in State law that says anything about it. Selectman Wallace said the normal thing he would think is that the Moderator would excuse himself or herself but Selectman Wallace would have to do some history or checking to see if that has been done or not. Selectman Cook said the Board had 46 Warrant Articles. Selectman Wallace said the Board has a busy week this week and he knows the Planning Board is really looking for the Selectmen to attend their meeting tomorrow evening. Selectman Wallace said he would like to see the Board take a position on at least these three issues so the Board can go before the Town on it. Selectman Wallace said the first one is modifying the Mt. Dearborn Road Historical and unfortunately he does not have any of these in front of him, he is just going by memory. Selectman Cook said he thinks he had them and gave a copy to Selectman Wallace and Selectman Wallace read a paper on Mt. Dearborn Road to the Board which said, so the Town made technical corrections to the boundaries of Mt. Dearborn Road historic area overlay district by amending Article 30-A: 2 of the Zoning Ordinance as follows; Mt. Dearborn Road historic area overlay district consists of an area 1200' from the center line both sides of the entire length of Mt. Dearborn Road but excluding (a) Lots of records abutting LaFrance, Gove or Hodgdon Roads, (b) Lots of record on the southerly side of Deering Center Road, State route 149 and (c) any cemeteries in that within that area. Selectman Wallace asked the Board what they thought of that? Chairman McDonald said it was to save open space in Weare. Selectman Wallace said on the one hand he doesn't like the way this is going but on the other hand he wasn't in favor of a district at all anyway so if this reduces the district then he thinks that is good. Selectman Cook said it was particularly the law was a family that their land abuts or it was included in that district even though their land is on Helen Dearborn Road of Hodgdon Road so they were obviously not in favor of this but at the time it could be any re-writing of Petitions or Warrant articles. Selectman Cook said the people that did this Petition made a commitment to them saying they would come back the following year and amend it. Selectman Wallace said but they are doing more than that and he knows in one instance that, Mr. Neal Kurk, owns the property on LaFrance and Selectman Wallace does not know if Mr. Kurk's property is affected or not. Selectman Cook said he believed that it was. Selectman Wallace said what he sees happening here, is a re-formulation to suit particular needs. Selectman Wallace said what he was told was in Mr. Kurk's case he didn't care whether his property was in the district or not and Selectman Wallace disagrees, he

Board of Selectmen

January 6, 2003

Page 21

does care, and Mr. Kurk is one of the primary sponsors of this last year and there was a big push of this, and the other thing they never told anyone was a month later, the end of April early May, Mr. Mark Prestureck came to the Zoning Board looking to put a commercial saw mill in there. Selectman Wallace said he felt this wasn't necessary at all and that it was a very close vote. Selectman Cook said it is a tough call on this one because he is in favor of relaxing the district. Selectman Cook said he looks at it that it is their road and if that's what they want to do. Selectman Wallace said does it come back until they got just the property that they don't want developed sectioned off? Selectman Wallace said that is what he thinks is happening. Chairman McDonald said it was save open space, save open space and the voters wanted to save open space and they voted it in. Selectman Bougher said that he would not be in favor of any rezoning on that original ordinance. Selectman Wallace said to the Board he guessed the consensus was not to change. Chairman McDonald said that is his vote. Selectman Reynolds said he is not going to take a stance either way. Selectman Wallace read some more of that paper and said it said increasing lot sizes by 1 acre each lot should have a minimum frontage of 300'. Selectman Cook said that he had talked to Mrs. Naomi Bolton about 300' frontage of lot sizes and he said it does something with the Towns table for soil types. Selectman Cook said the reason he would not be in favor of this because of sprawl because it puts people further apart. Selectman Cook said that one of the things he sees on the Planning Board, the cluster development philosophy, Selectman Cook kind of likes it because it preserves big chunks of open space. Selectman Cook said you actually put your houses closer together so in essence you have shorter Town roads. Selectman Cook said if you made everybody space their houses out 300' you could have a Town road equivalent to what ever it is rather than if you had a cluster development where you only had a short Town road comes in goes around and you're out of there. Selectman Cook said to him that adds to sprawl and spreading people further apart and maybe adding to the inventory of roads and the maintenance that is why he likes the cluster development theory because it preserves the open space and you have a nice big chunk of land that you can still keep there and it ends up making your Town road shorter. Selectman Cook said this was attempted last year by Mr. Craig Knowles and Selectman Wallace believes Mr. Knowles was the one that brought it forward last year and this year it is coming forward by Mr. Neal Kurk. Selectman Wallace said if he remembers correctly it failed pretty significantly last year. Selectman Bougher said it is not in the Master Plan and he would have to look at it maybe from a harder point of view that will be challenged right away and sitting Selectmen can defend it. Selectman Reynolds said the increase of the acreage doesn't bother him it is the frontage part that bothers him. Selectman Bougher said that he thinks if it was just the acreage you might get by with a challenge in court but when you put that much frontage on it, that's a lot of frontage. Selectman Bougher said that if that was put in the Master Plan and we looked at all these theories and everything and that was passed by the voters he wouldn't have a problem with that. Selectman Wallace said the last one is the moratorium one,

building permits. Selectman Wallace said it is a no building permit plan. The Board discussed this and what it basically is saying is that you are locking your Town down and you just can't do it. Selectman Wallace said that's the other part of that you keep people from doing what they want with their property, no subdivisions or anything. Selectman Reynolds said if you have a few lots you can sell your land becomes basically worthless if you can't build on them. Selectman Wallace said he did talk to Mr. Everett Stone and Mr. Stone said the building permits were down this year. Selectman Wallace asked Mr. Stone to put it on the server and Selectman Wallace can't find it but he will get that information for tomorrow night, but single family and multifamily are all down. Selectman Wallace told the Board that he didn't think that the Town had a growth problem he thinks the Town has a lack of commercial revenue and until he sees a Master Plan or any other plan that takes that into account and says we recognize that we need commercial revenue here Selectman Wallace is going to just keep harping on that. Selectman Cook addressed a paper to the Board and said number 21 or date 21, last day to hold at least one Public Hearing on annual budget, can hold additional Public Hearings earlier with seven day notice, should schedule at least one Public Hearing after January 14 to include any Petition or Warrant Articles. Chairman McDonald said right, the Board can hold a second budget hearing after. Selectman Bougher said that is what he thought the Board was going to do that he thought the 13th was pretty much going to be give and take with the Finance Committee and go over a few things and go over numbers and then the 20th would be the Public Hearing. Selectman Reynolds said the Board better get that posted then. Selectman Cook said he would make a note to schedule a Public Hearing on January 20, 2003. Selectman Reynolds said that would be good because the 13th would be the one to hammer everything out.

10. NEW BUSINESS

Letters to be put in Selectmen's Files - Selectman Bougher said he has some letters to put in to the official file, the one from Mr. Carl Knapp about the Master Plan, Selectman Bougher wanted to make sure that letter was put in to the files and the other one is from Mrs. Elayne Pierson that says, after the discussion of the Board of Selectmen Meeting December 30, 2002, request is made as to fees paid or contracts entered into the Town of Weare and Selectman Wallace regarding the Town Website, there has been no fees paid to Selectman Wallace for the Town website and relating services by the Town of Weare, there are no contracts in effect between the Town of Weare and Selectman Wallace.

Building Department E-mail – Selectman Reynolds talked to Mrs. Cheryl LaBuda about setting up an e-mail with her name and the Board said they would do that.

Board of Selectmen

January 6, 2003

Page 23

Resignation Letter– Selectman Wallace said the Board received a resignation letter from the Assessor, Mr. Craig Nichols. Selectman Wallace said the Board should accept that.

Selectman Wallace made a motion to authorize the Board of Selectmen to accept the resignation of Mr. Craig Nichols position of Assessor with gratitude for his years of service effective January 23, 2003. Seconded by Chairman McDonald. Chairman McDonald wanted to thank Mr. Nichols for many years of hard work. Chairman McDonald said that Mr. Nichols brought the Town forward quite awhile and his services will definitely be missed. Selectman Reynolds and Selectman Bougher both said they were sorry to see Mr. Nichols leave and they will miss him. A vote was taken. Motion passed unanimously.

Selectman Wallace asked Chairman McDonald if the Board wanted to setup an exit interview with Mr. Craig Nichols. Chairman McDonald said yes.

Exit Interview - Chairman McDonald asked the Board about the exit interview if they thought the arena should be the Board of Selectmen or the Benefit Review Committee? Selectman Bougher said off the top of his head he would say the Benefit Review Committee. Selectman Reynolds said he was thinking that too, but at the same point he was thinking it might be better if the Board of Selectmen do it so they get a better feel for what, if there is something that the Board could do better to keep key employees, whatever, it would give the Board a better handle on it. Selectman Cook said it should be a combination of The Board of Selectmen and the Benefit Review Committee. Selectman Wallace said he is in agreement with the combination, that there may be issues Mr. Nichols wants to discuss that involve other personnel or themselves and that should be in a Nonpublic Session so Mr. Nichols can speak freely and honestly. The Board was in agreement to ask Mr. Nichols if he wanted an exit interview and that if he did the Benefit Review Committee would do an exit interview and the Board of Selectmen would do an exit interview in two different meetings.

CIP - Selectman Cook brought up the CIP again. Selectman Cook said that Article 47 would be closed. The Animal Control Fund now would be transferred to Police Cruiser line, the Jaws of Life balance has to be transferred to General Fund and the Air Pack replacement balance to be transferred to the Fire Equipment Replacement Fund that is being established. Chairman McDonald asked Selectman Cook if he was ready to closeout now and he said yes, 49 is the last Article number.

Assessing Department Ad – Selectman Wallace recommended to the Board to put an ad in the paper immediately. The Board was in agreement. Selectman Cook asked Chairman McDonald if he was going to take care of the ad for the Assessor? Chairman McDonald said he would.

CIP Description – Selectman Wallace said a description of the CIP was in an article of a News Letter that caught his eye. Selectman Wallace said the Board oversees CIP getting larger and the News Letter gives an excellent description of what the CIP is, what it's function is, and why the Board should be investing in it. Selectman Wallace said he would like to copy this article and include it in a mailer.

Selectman Wallace made a motion to authorize the Board of Selectmen to send out a mailer which explains everything that the Board is interested in and why the Board is interested in it. Selectman Wallace said the CIP, the Planner and whatever else and allow up to \$1,500.00 to do this. Seconded by Selectman Reynolds. A vote was taken. Motion passed unanimously.

Budget- Selectman Bougher asked the Board about the Operating Budget. Selectman Bougher said that last years budget is gone and any money left over in that is gone and he doesn't have a way out. Selectman Wallace said there may be a way out because as he understands it there is an issue with Fire Department bonuses. Selectman Wallace said the Board could take that money which would come from the surplus. Selectman Wallace also said that if Selectman Bougher thought there was an issue here it wouldn't cost a lot to get a quick opinion. Selectman Bougher said one or two ways, if that money isn't there then probably there is enough from the three of the Board members not taking a full salary that they could technically donate to the budget and a legal opinion would make Selectman Bougher feel happy.

Chairman McDonald made a motion to authorize that the Board of Selectmen get a legal opinion on the Operating Budget. Seconded by Selectman Reynolds. A vote was taken. Motion passed unanimously.

Minutes Transcriber - Selectman Cook said he would like to put in \$10,000.00 in the Operating Budget for a Minutes Transcriber. Selectman Cook said the Board has talked about this before and it will definitely free up some time for Land Use and the Administrator Coordinators position. Selectman Bougher said he agrees with everything that Selectman Cook said but it is a new position and he thinks that new positions should go out and stand on their own and should be on a separate Warrant Article. Chairman McDonald was in agreement to get the Minutes Transcriber put into the budget. Chairman McDonald said the Board has some duties as the Managers here to do what they think is right as far as the operation of this Town. Chairman McDonald said that it can be part of the restructuring. Selectman Wallace was in agreement also to put into the budget.

Selectman Cook made a motion to authorize the Board of Selectmen to put \$10,000.00 under the Selectmen's office line for a Minutes Transcriber. Seconded by Chairman

Board of Selectmen

January 6, 2003

Page 25

McDonald. A vote was taken. Motion passed with Three in favor and Two Opposed (Selectman Reynolds) and (Selectman Bougher).

Chairman McDonald made a motion to authorize the Board of Selectmen to include 2 Police Officers in the Operating Budget. Seconded by Selectman Cook. A vote was taken. Motion passed with Three in favor and Two Opposed (Selectman Reynolds) and (Selectman Bougher).

Selectman Reynolds wanted to make it clear to everybody who is watching that it is not that he doesn't support the positions, it is just that they are new and he feels they should be separately. Selectman Reynolds said whether they are in the Budget or they stand alone on a Warrant Article he feels the Board still needs the positions. Selectman Bougher told the audience that may be watching he feels the same as Selectman Reynolds.

Raises – Selectman Cook asked the Board if they came up with a figure for raises? Chairman McDonald said it was \$39,000.00 he thought, it was 3% of the 1.3 million dollar salary line for the Town. Selectman Cook asked to make it an even \$40,000.00? Chairman McDonald said the Board will go with \$40,000.00 and that will cover Medicare Fica, etc.

Southern NH Planning – Selectman Cook asked the Board if they were going to pay the additional \$560.00 to Southern NH Planning? The Board said yes that it was a 2002 bill that was received after the time but that it had been budgeted in 2002.

NHMA – Selectman Bougher asked about how the Board wanted to handle the Life Insurance of \$10,000.00 for each employee. Selectman Bougher said the Board is still waiting for a quote from Nalette Insurance. Selectman Cook said to just keep it in the budget, that the Board didn't have to cut a check until they are 100% sure. Chairman McDonald said it will be another 2 weeks before the Board gets a quote.

Selectman Cook said he was going to change another Warrant Article, so Article 45 would be to Amend the Finance Committee and Article 46 would be to close the ACO and 47 would be to close the Jaws of Life, and Article 48 would be to close the Air Pack, and Article 49 would be Bolton Field and Bolton Field being the Petition Article. Selectman Cook said that last year there were 17 Articles.

11. OLD BUSINESS

Melvin Valley – Chairman McDonald said he spoke to Mrs. Elayne Pierson, Finance Administrator, and she checked with ERA today about the Melvin Valley money and Mrs. Pierson informed Chairman McDonald that the Board does not need to go before

Board of Selectmen

January 6, 2003

Page 26

the voters and approve anything, that the Board had the authority to vote and to bring it back into the General Fund.

Chairman McDonald made a motion to authorize the Board of Selectmen to return the money air marked for Melvin Valley which is up to \$200,000.00 back to the General Fund. Seconded by Selectman Wallace. A vote was taken. Motion passed unanimously.

Overtime – Chairman McDonald told the Board that Mrs. Merry Rice had to work some overtime for the Board because when she went over the Meeting Minutes for last week, the tape had run out a few times and she had to do a comparison to the video tape and Mrs. Rice was swamped last week so she brought the stuff home and she worked 12.5 hrs. this weekend to get the Board of Selectmen's minutes done. Chairman McDonald said that Mrs. Rice had no access to a video recorder available at work to replay the tape and be anywhere near a phone. The Board agreed with Chairman McDonald and said it had to be done, Mrs. Rice had to do what she had to do.

Manifests – Chairman McDonald moved to authorize the Board of Selectmen to sign manifests and order the Treasurer to sign checks dated January 9, 2003 with accounts payable of \$474,072.06 and gross payroll of \$32,102.69 for a combined total of \$506,174.75. Seconded by Selectman Cook. A vote was taken. Motion passed unanimously.

Chairman McDonald moved to authorize the Board of Selectmen to sign manifests and order the Treasurer to sign checks dated January 7, 2003 with accounts payable of \$10,094.00. Seconded by Selectman Reynolds. A vote was taken. Motion passed unanimously.

Fire Bonuses- Selectman Wallace asked about the Fire Bonuses. Selectman Wallace said from what he understands they don't want them. Chairman McDonald said yes, it is going to create controversy and some tension inside of there. Chairman McDonald said that he spoke to the Fire Chief, Mr. Bob Richards, and there was some concern about who was working and who wasn't and people who have worked Christmas in the past or people who have worked the previous 10 or 20 fires and happened not to go on Christmas day and someone who showed up on Christmas day and they get more money than someone who has fought 10 or 20 fires. Chairman McDonald made the suggestion that instead of creating friction over there, the Board just removes the \$2,000.00 from the formula and Chairman McDonald said he would have no problem with shifting that towards a mailer. The Board agreed.

Board of Selectmen

January 6, 2003

Page 27

Cistern – Selectman Wallace asked the Board if anything had to be done with the Cistern that they have been having problems with. Selectman Cook said it was going to be looked at by an engineer.

Computers – Selectman Wallace told the Board he has looked at computers, a new laptop and a new desktop. Selectman Wallace said the only thing out there are Hewlett Packard and Compaq's. Selectman Wallace said there are some Sonies out there as well. Selectman Wallace said that Hewlett Packard has some super deals but the problem is, that he works for HP so he really can't participate in the formal vote for any of these and he wants to open with the Board that he thinks the HP is the cheapest and he wants to be up front that he thinks it is not going to enrich the company if the Town buys two computers. Chairman McDonald said he has no problem with that. Selectman Bougher asked if they would be purchased from Selectman Wallace's company and he said no, they would come from Best Buy or somewhere else.

12. NONPUBLIC SESSION

Chairman McDonald said the Board was going to have a couple of Nonpublic Sessions.

Selectman Wallace made a motion for the Board of Selectmen to enter into a Nonpublic Session at 12:20 a.m. pursuant to the authority granted in RSA 91-A :3 II (c) of matters discussed public would likely affect adversely or reputation of any person other than members of the body or agency itself. Seconded by Chairman McDonald. A roll call vote was taken. Selectman Bougher – yes; Selectman Reynolds – yes; Chairman McDonald – yes; Selectman Wallace – yes; Selectman Cook – yes. Motion passed unanimously.

In Attendance: Chairman McDonald, Selectman Wallace, Selectman Cook, Selectman Bougher, Selectman Reynolds.

Chairman McDonald moved that the Board of Selectmen come out of Nonpublic Session at 1:05 a.m. pursuant to the authority granted in RSA 91-A-3 II (a). Seconded by Selectman Bougher. A roll call vote was taken. Selectman Bougher -yes; Selectman Reynolds -yes; Chairman McDonald - yes; Selectman Wallace -yes; Selectman Cook -yes. Motion passed unanimously.

Chairman McDonald moved to seal and restrict the minutes of the Nonpublic Session pursuant to the authority granted in RSA 91-A:3 III. Seconded by Selectman Reynolds. A vote was taken. Motion passed unanimously.

Board of Selectmen

January 6, 2003

Page 28

Chairman McDonald said he would like to make a couple of quick public mentions here, public notices here. Chairman McDonald said the Board is going to name Mrs. Donna Meuse, Acting Welfare Director until further notice and the Board is also going to appoint Mrs. Donna Matheson, Acting Administrator Coordinator until further notice.

13. ADJOURNMENT

Chairman McDonald moved to adjourn. Seconded by Selectman Bougher. A vote was taken. Motion passed unanimously.

A True Record

Merry Rice, Secretary